

PROTOCOL AGAINST HARASSMENT AND DISCRIMINATION

“In compliance with Organic Law 3/2007 of 22 March for the effective equality of men and women and Law 17/2015 of 21 July of effective equality of men and women”

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1. PURPOSE

The purpose of this protocol is to define the framework of action regarding workplace violence in any of its manifestations: sexual harassment, gender harassment, bullying or other forms of discrimination that may occur within **ISGlobal** and the entities with which ISGlobal has coordinated preventive activities, for the explicit purpose of eradicating this kind of conduct from the workplace.

Therefore, this protocol aims to be a guide for the prevention, detection, action and resolution of these cases.

The objectives are:

- Create awareness strategies through training and informative actions
- Provide resources for early resolution of these kinds of harassment
- Create flexible intervention circuits
- Define the roles and responsibilities of the different agents

It is a dynamic document that can incorporate other practices that are not described herein that may be deemed abuse.

This protocol will be activated if there is suspicion of violence at work, even if the allegedly harassed person reports it to the Labour Inspectorate or the relevant judicial bodies.

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2. DECLARATION OF PRINCIPLES

Everyone has the right to be treated with dignity, have their moral integrity respected and to non-discrimination. So that the workplace guarantees these rights, ISGlobal is committed to creating a workplace where the sexual freedom and dignity of everyone working at ISGlobal is respected.

For this reason, **ISGlobal** assumes that discrimination and harassment attitudes are an infringement upon the dignity of those comprising the entity and, therefore, harassment will not be permitted or tolerated in the workplace.

Should harassment occur, **the person is guaranteed help by means of the procedure regulated herein**, and the necessary means will be put in place so that this situation does not happen again.

This protocol aims to regulate the problem of workplace violence, in all its forms, establishing a procedure. This procedure will aim to prevent these situations through training, responsibility and information, and, should a situation occur, provide a rapid response to claims on this matter, always with due guarantees, within the framework of constitutional and employment legislation and fundamental rights in the workplace.

ISGlobal is committed to obtaining safe and respectful workplace environments for everyone. The fight against this kind of discrimination is a priority and an active commitment.

The philosophy and intention of this protocol is, at all times, to implement its content from the perspective of prevention.

Studies and the existing legislation coincide in pointing out that the most effective instrument of protection is prevention and intervention in the very first stages of these situations within the entity itself, as there are numerous difficulties inherent in protection a posteriori against harassing behaviour and actions, particularly for the health of the people who experience them.

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3. GENDER OR SEXUAL HARASSMENT

3.1. Sexual harassment

Sexual harassment is deemed to be the reiteration and insistence in sexual conducts that the recipient does not want, which comprise a form of harassment that is exercised, in general, from positions of hierarchical, psychological or physical power, usually in a workplace, education, domestic or any other setting that implies subordination of the harassed person, although it also includes cases between people at the same level of employment.

Organic Law 3/2007 for the effective equality of men and women integrates harassment as a manifestation of the inequality between men and women, of gender discrimination and gender violence, which must be eradicated. Thus, in article 7, it defines it as follows:

“Without prejudice to that provided in the Criminal Code, for the effects of this Law sexual harassment comprises any behaviour, verbal or physical, of a sexual nature that aims to produce or produces the effect of infringing upon the dignity of a person, particularly when it creates an intimidating, degrading or offensive environment”.

Article 7.1

Article 2 of *Directive 2002/73/EC of the European Parliament and Council of 23 September 2002*, includes the following definitions of harassment:

- Harassment as a situation where there is unwanted behaviour relating to the sex of a person, with the aim or effect of infringing upon the dignity of the person and creating an intimidating, hostile, degrading, humiliating or offensive environment.

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- Sexual harassment as the situation in which any unwanted verbal, non-verbal or physical behaviour occurs, of a sexual nature, with the aim or effect of infringing upon the dignity of the person, particularly, when it creates an intimidating, hostile, degrading, humiliating or offensive environment.

The **International Labour Organisation (ILO)** considers that for sexual harassment to exist, three situations must arise:

- Behaviour of a sexual nature.
- That it is unwanted by the recipient.
- That the victim perceives it as a hostile determining factor regarding their work and which transforms it into a humiliating situation for them.

The *Workers' Statute* states, in article 4.2.e), that all workers are entitled to their privacy being respected and to due consideration of their dignity, including protection against physical or verbal offences of a sexual nature.

SEXUAL HARASSMENT: *reiteration and insistence in sexual conduct that is not wanted by the recipient which constitutes a form of abuse*

Sexual harassment includes:

- Suggestive observations, jokes or comments about the appearance or sexuality of the victim.
- Telephone calls, letters or e-mails of an offensive nature, of sexual content.
- Deliberate and unsolicited physical contact by another or excessive or unnecessary physical proximity.

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- Indecent or compromising invitations and requests for sexual favours, through insinuations, attitudes, or directly, accompanied by promises of preferential treatment if they agree to the demand, or threats if they do not.
- Physical contact of a sexual nature; generally accompanied by offensive comments or gestures that the victim does not want.

3.2. Gender harassment

Organic Law 3/2007 incorporates the concept of **gender** harassment, which complements the concept of sexual harassment as forms of gender discrimination:

“Gender harassment comprises any behaviour relating to the gender of a person, with the aim or effect of infringing upon the dignity of the person and creating an intimidating, degrading or offensive environment.”

Article 7.2

The characteristics of this conduct are as follows:

- Behaviour that is undesirable or unwanted by the recipient.
- It is related to a person’s gender.
- The aim or effect produced is to infringe upon the person’s dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment.

Some examples of gender harassment are:

- Discriminatory conduct due to the fact they are male or female.
- Unfavourable treatment due to pregnancy or maternity.
- Evaluating people’s work with contempt, bias or unfairly, due to their gender or sexual inclination.
- Engaging in conduct that ridicules or belittles lesbians, gays, transsexuals or bisexuals.
- Offensive ways of addressing the person.

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- Ridiculing, belittling the abilities, skills and intellectual potential of women.
- Using sexist humour.
- Belittling the work done by women.
- Ridiculing people who perform work traditionally performed by the other gender.
- Ignoring contributions, comments or actions (excluding or not taking them seriously).

Sexual harassment and gender harassment conduct includes and is deemed to be:

“A right or an expectation of a right being subject to the acceptance of a situation constituting sexual harassment or gender harassment shall also be considered an act of gender discrimination.”

Both kinds of conduct comprise an example of the inequality between men and women in the workplace and, as such, are labelled as breaches of the principle of equality. The difference between them lies in that, while the first is limited to sexual matters, gender harassment implies much broader discriminatory work-related situations, without there having to be any sexual intention by the offender.

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4. TYPES OF SEXUAL HARASSMENT

The types of sexual harassment found in work-related environments are the following:

- **Sexual blackmail:** arises when the refusal or submission of a person to this conduct is implicitly or explicitly used as the basis of a decision that affects that person's access to professional training, a job, continuity of a job, professional promotion, salary, etc. Normally, it occurs vertically, in other words, between the offender and the victim there is a hierarchical relationship.

Sexual blackmail can be **explicit**, when there is a direct and express sexual proposition or physical coercion for it, or **implicit**, when the employee has not been propositioned sexually, but other people of their same gender, in similar professional circumstances, improve their category or salary by accepting sexual blackmail conditions, which implicitly encourages their acceptance.

- **Workplace sexual harassment:** its main characteristic is that offenders maintain behaviour of a sexual nature, of any kind, which results in the production of an intimidating, hostile, offensive or humiliating context. This requirement is not conditioned, and this type is considered to be verbal insults, serious and persistent jokes of a sexual nature about the person or their private life, etc.

In **workplace sexual harassment** the consequences are less direct; the determining factor is the maintenance of a behaviour or attitude of a sexual nature of any kind that produces a negative working environment for the employee, creating an offensive, humiliating, intimidating or hostile environment, that ends up interfering with their normal performance. What is negatively affected here is the work environment, understood as a working condition itself.

We can also find the following harassing behaviours, depending on the person who does them:

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- ***Descending harassment:*** when the offender is in a higher position than the victim.
- ***Horizontal harassment:*** this occurs between colleagues of the same hierarchical level. It may be due to other reasons such as jealousy or high competitiveness, and with the objective of impeding the colleague's work to damage their professional image or to take credit for the other person's work.
- ***Ascending harassment:*** the offender is someone who is on a lower hierarchical level than the victim. This type of harassment can occur in situations in which an employee is promoted, and their previous colleagues are now subordinates. This can also occur when someone with a higher rank joins the organisation.

Sexual harassment and gender harassment are a reflection of the social relationships of power between men and women, so their causes are related to the roles attributed to men and women in society, and as a result, affect relationships of power in the work environment.

Levels of intensity of manifestations of sexual harassment:

- **Mild sexual harassment:**
Jokes of a sexual nature. · Sexual comments about workers · Excessive proximity · Suggestive looks and gestures.
- **Serious sexual harassment:**
Questions about workers' sex lives · Sexual suggestions. · Open request for sexual relations · Pressure after a relationship breakup · Sending letters, images, messages, photos, e-mails with sexual content that propose, encourage or pressure the victim into having sexual relations.
- **Very serious sexual harassment:**

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Unwanted hugs, kisses, touches, pinching · Cornering, sexual assaults ·
Pressure to obtain sex in exchange for improvements or threats ·
Performance of sexual acts under pressure of dismissal.

Sexual harassment of minors:

Sexual harassment of minors, from a legal perspective, is that action which implies not only the intention but, sometimes, the action of converting the minor into a sexual object for a person of legal age, in most cases, with awareness that what they are doing is a degrading situation for the minor, child or adolescent. The crime of sexual assault and abuse of minors is classified in article 183 of the Spanish Criminal Code.

In the case of ISGlobal, this is an issue that deserves special attention given that some research studies may involve minors.

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5. COLLECTIVES OR GROUPS AT RISKS OF SEXUAL HARASSMENT

Sexual harassment and gender harassment can occur in any profession, work environment or professional category, and in any age group.

Studies show that most people who suffer gender harassment are **women**.

Despite being a phenomenon that goes beyond professional categories, levels of education or income, the most vulnerable groups are:

- Single women with family responsibilities (single mothers, widows, separated and divorced women).
- Women who first enter professional sectors or categories that are traditionally masculine (in which there are few women) or who have jobs that are traditionally considered as intended for men.
- Young women who have got their first job (generally of a temporary or atypical nature).
- Women with disabilities.
- Immigrant women and those who belong to ethnic minorities.
- Women with casual and temporary contracts: sub-contracted women.
- Homosexuals and young men (people harassed by women or other men, particularly when they are their hierarchical superiors).
- Minors.



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6. WORKPLACE HARASSMENT OR MOBBING

This is any situation that affects a person or group of people who exercise extreme psychological violence, systematically (at least, once a week), during a prolonged period of time (**more than 6 months**), over another person in the workplace from a position of power (not necessarily hierarchical).

Conceptualising:

“**Mobbing** is a process originating in the work environment, and is included within the group of psychosocial risks; it has been described by a group of experts from the European Union as “negative behaviour between colleagues or between people who are hierarchically superior or inferior, due to which the affected person is subject to harassment and systematic attacks over a long period of time, directly or indirectly, by one or more people, with the objective and/or effect of giving them the cold shoulder”.

The Spanish National Health and Safety at Work Institute (INSHT) acknowledges and covers this work risk in NTP 476 document.

Possible key factors:

- Intention to harm: real existence of damage to professional and personal dignity.
- Persistence in time and target.
- Breach of the person’s fundamental rights.

Type of conduct:

- Actions that infringe upon the dignity of the person or their reputation; such as, for example: slander, ridiculing the physical appearance, gestures, voice, lifestyle, religious beliefs of the harassed person; insults, shouting, spreading of rumours, prohibition of colleagues speaking to that person, among others.

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- Conduct against the performance of their work; such as, for example: they are assigned tasks not in line with their skills, either too much or too little; performing the task is made difficult by hiding relevant information, not specifying their tasks, giving contradictory orders; decisions taken by the person are questioned or their performance is assessed in an offensive way, among others.
- Establishing situations of inequality, such as, for example: fostering favourable treatment towards certain employees, among other behaviours.
- Actions against the physical workspace, such as isolation from the rest of the employees, making social relationships difficult and fostering precarious working conditions, among others.

Types of workplace harassment or mobbing:

- **Descending workplace harassment:** when the offender is in a superior hierarchical position to that of the victim.
- **Horizontal workplace harassment:** this occurs between people on the same hierarchical level.
- **Ascending workplace harassment:** when the offender is in a lower hierarchical position to that of the victim.

Difference compared to sexual harassment and gender harassment:

- **Workplace harassment** is differentiated from **sexual harassment** when there are behaviours of a sexual nature that infringe upon a person's dignity.
- **Workplace harassment** is differentiated from **gender harassment** when there are behaviours that infringe upon the dignity of a person of a specific gender, for the mere fact that they are that gender.

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Conduct that does not comprise workplace harassment

- A one-off situation arising from an argument.
- A tough and demanding boss. Character traits.
- Styles of authoritarian leadership.
- Excessive workload and stress factors.
- Rumours and slanderous communications within the organisation.

Determining factors of workplace harassment:

- Intentionality
- Aiming to harm
- Objective to destroy
- Repetition
- Sustained over time

Groups of risk

- Temporarily employed people
- People who may arouse professional jealousy or envy
- Emotionally innocent people
- People who enjoy good working conditions
- Innovative and active people

Consequences

- Stress and anxiety
- Chronic fatigue

Workplace harassment may be conduct that constitutes an offence. Article 173 of the Criminal Code establishes that “**whoever inflicts degrading treatment on another person, seriously diminishing their moral integrity, will be punished with a prison sentence between six months and two years**” and

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continues that “the same sentence will be given to those who, within the scope of any labour or administrative relationship and taking advantage of their superiority, repeatedly carry out hostile or humiliating acts against another which, without going so far as to constitute degrading treatment, imply serious harassment against the victim”.

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7. CONFLICT IN THE WORKPLACE

A conflict is an apparently opposite interest that arises in the interpersonal relationships system through different factors such as communication, exchange of information, opinions, judgements or personal beliefs.

Conflict arises through different perceptions, therefore when a situation or problem does not involve different interests, no conflict arises.

- Interpersonal Conflict
- Intergroup Conflict
- Social Conflict

One of the **differences between workplace harassment and a work dispute** is the intention that exists behind harassing behaviour, the systematic **repetition** and clear premeditation.

A work dispute can arise as a sporadic situation, which can generate aggressive or impulsive behaviour but there is no intention to systematically destroy the other person.

In a conflict, positive communication can modify the situation or generate agreements, in mobbing there is no agreement or constructive communication.

Stress:

This is a biological state generated by social and socio-psychological situations.

According to some authors ***“stress comprises a stressor and the reaction of the organism subject to the stressor’s action”***.

Workplace harassment can pass through **an initial stage of stress**, but it is only harassment if it causes isolation of the victim and an aggression in the working conditions with the intention of destroying the person and them subsequently leaving the job.

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8. RIGHTS, OBLIGATIONS AND GUIDELINES

8.1 People with responsibility and Management personnel

The institution is completely **responsible** for guaranteeing everyone's right to a safe and productive work environment and the obligation of creating an environment that respects the dignity of the employees of the entity.

The obligations of everyone in the management team are to:

- Treat everyone **politely and with respect**, avoiding any behaviour or attitude that can be offensive, annoying or discriminatory.
- Guarantee the compliance and monitoring of the guidelines and principles established herein.
- Be on the lookout for signs of sexual harassment or gender harassment.
- **Encourage reporting** of these situations using the established channels and processes.
- **Respond appropriately** to anyone filing a complaint.
- **Seriously** research or investigate complaints or reports.
- Monitor the situation after a complaint.
- Maintain the **confidentiality** of the cases.

8.2 Human Resources as a channel

It corresponds to the Human Resources Department, Administration and Management to contribute to the prevention of sexual harassment and gender harassment in the workplace through **awareness and communication** to the entity's management of conducts or behaviours of which they have knowledge, and which may favour it.

Without prejudice to the obligations and functions that the Law attributes to them regarding the prevention of Occupational Hazards, mechanisms will be established so they may exercise the following functions:

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- Participate in the creation and monitoring of the protocol.
- Contribute to creating greater awareness and culture regarding this matter, proposing dissemination actions, etc.
- Propose and establish mechanisms and procedures to find out the scope of this behaviour; contribute to the detection of situations of risk.
- Provide the necessary medical and psychological support required, including support with professionals outside the organisation.
- Act as guarantors of the established processes and commitments.
- Ensure the non-existence of retaliation for employees who make use of or who participate in processes and actions against sexual harassment or gender harassment conduct.
- Guarantee the effective application of sanctions.

8.3 People who comprise the entity

- The people who form part of our entity have the right to a **healthy environment** and not to suffer gender harassment. No one has to suffer behaviour or actions they deem offensive, humiliating, denigrating or annoying.
- The obligation to treat others with **respect**. Everyone in this entity has the obligation and responsibility to treat their colleagues, **managers**, subordinates, clients or suppliers with respect. It is important to show respect and consideration to everyone with whom we are in contact and to avoid those actions that may be offensive, discriminatory or abusive. It is necessary to avoid behaviour that may potentially make someone feel uncomfortable, excluded, or that makes them unequal (jokes, ways of addressing them, etc.).
- The obligation to **not ignore** these situations. If someone behaves in a way that seems annoying or offensive to someone, or if someone nearby seems to be suffering these situations, they should not be ignored, rather actions should be taken to prevent them.
- **The obligation to report** these known situations of harassment, and the duty of confidentiality. Harassment is a very serious matter and

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people's privacy must be respected. Even when a case has been resolved, confidentiality and respect must be maintained.

- **Responsibility of cooperating** with an investigation process for an internal complaint. **Everyone** who forms part of the organisation has a responsibility to cooperate with the investigation of a harassment complaint.

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9. PREVENTIVE MEASURES

The *European code of conduct on measures to combat sexual harassment*, created by the Commission of the European Communities, in compliance with the *Recommendation* of the same Commission, of 27 November 1991, establishes some measures to prevent situations of harassment.

9.1 Responsibility of the entity

- ISGlobal will deal with this undue behaviour as with any undue behaviour and must prevent harassment of its employees.
- As harassment constitutes a risk to health and safety, ISGlobal will take the necessary measures to prevent this risk as much as possible, as it does with other risks.

9.2 Criminal record of sex offences

In compliance with its duty of diligence and regarding research studies of children, ISGlobal receives the corresponding certificate accrediting the non-existence of a criminal record for sex offences from all employees who provide their services with minors and whose work requires regular contact and physical proximity with an unaccompanied minor (e.g. by father, mother, legal guardian or responsible adult). This certificate must be given to the HR department before the start of contact with minors¹.

¹ The last modification of Organic Law 1/1996 of the legal protection of minors establishes that (Art. 13.5): A requirement for the access and exercise of professions, trades and activities that imply habitual contact with minors will be not to have been convicted in a final ruling for any crime against sexual indemnity and freedom, which includes sexual assault and abuse, sexual harassment, exhibitionism and sexual provocation, prostitution and sexual exploitation and corruption of minors, as well as human trafficking. For this purpose, whoever aims to access such professions, trades or activities must accredit these circumstances by providing a negative certificate from the Central Registry of Sex Offenders.

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9.3 Communication of the protocol

The entity **undertakes to disseminate** this protocol and facilitate opportunities to inform and train everyone who is part of the entity and, in particular, the management team to contribute to creating greater awareness of this matter and to facilitate knowledge of the rights, obligations and responsibilities of each person.

9.4 ISGlobal, through the Human Resources department, will guarantee that:

- All employees are informed of the protocol.
- The people who are incorporated know from the start their rights and obligations and the available mechanisms of support and protection. A copy of the protocol will be attached to the contract and other welcome documents, the receipt of which will be signed.
- This protocol with the indications and guidelines for everyone who may suffer a situation of workplace violence in every sense of the phrase; sexual harassment and gender harassment, mobbing or discrimination, is available and accessible to employees on the Intranet, in the specific section “Equality Policy”.

9.5. ISGlobal will organise specific training actions on:

- What is and what is not workplace violence behaviour; sexual harassment, gender harassment, psychological harassment or discrimination.
- The prevention policy of the institution.
- The internal channels of resolution and access to the external mechanisms of protection (administrative and legal).

9.6. Actions will particularly be taken for these three levels of people:

- People who join the organisation.
- People with management responsibilities.
- People who manage teams of people.

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10. PROCEDURES OF ACTION

Guiding principles, in both the informal and formal procedures, are:

- **Principle of speed**

It is necessary that the procedure be carried out urgently and that a deadline be set for the resolution of the claims or complaints that are processed.

- **Principle of confidentiality**

All the formalities that are carried out within the procedure will be confidential.

This means not including personal data in files, express indication to those people who intervene of the obligation to keep the matter secret, safekeeping of documentation, use of alphanumeric codes to identify the files, etc.

- **Principle of privacy protection**

The procedure must protect the privacy of the victim of harassment, as well as of all the people involved in the procedure.

- **Principle of protection of people's dignity**

The dignity of the victim of harassment, as well as of all the people involved in the procedure, must be protected.

- **Principles of legal certainty, impartiality and right to defence of the people involved**

Guarantee the participation of the occupational hazard prevention service and the balanced presence of men and women in its composition.

10.1 Advice and assistance to affected people: The person of reference

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The entity wants to facilitate the support and assistance of the people in its organisation who may be suffering this situation. Also, to those people who are not part of ISGlobal but who interact with it due to their work.

ISGlobal has appointed a list of people who have the necessary training and skills to support the victims in this process.

Their functions are:

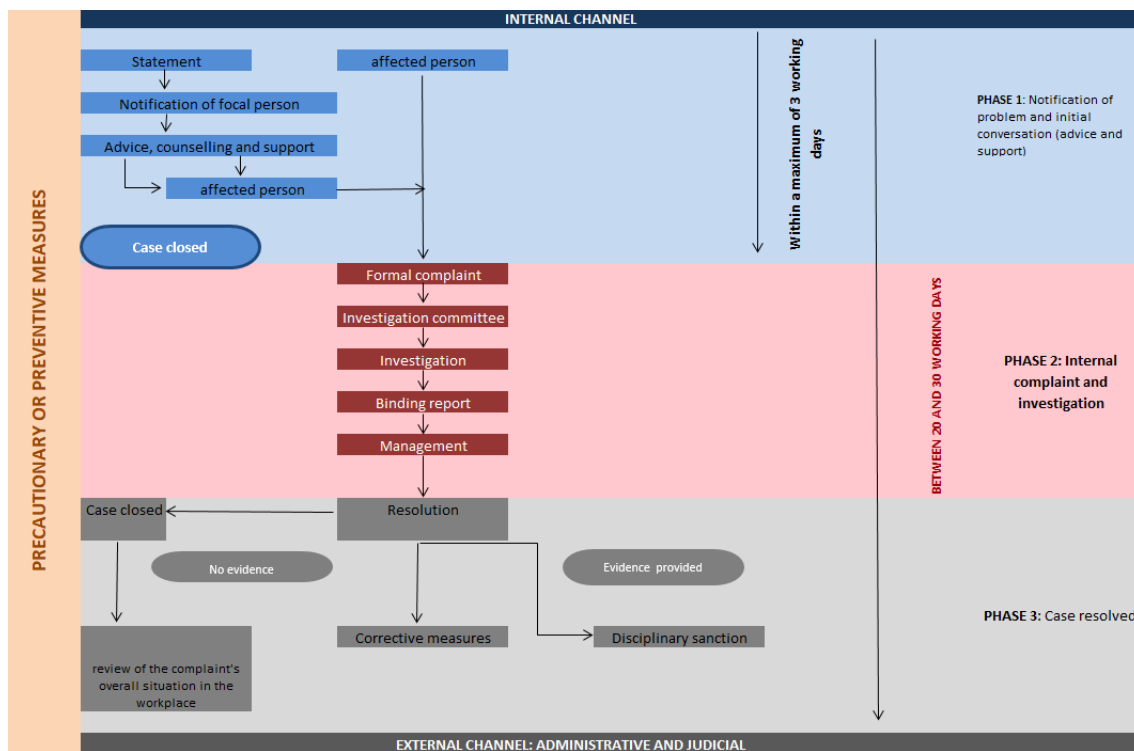
- Provide support to the person who complains to identify whether a behaviour can be susceptible or not to constituting any kind of harassment or conflict.
- Facilitate information on the different options to directly solve the problem; facilitate information and advice on how to proceed.
- Facilitate information on the channels of support and reference (medical, psychological, etc.).
- Facilitate assistance to solve the problem.

The **persons of reference** in our organisation are:

- Samuel Espinal Murillo, Head of the management area of the Human Resources Department (samuel.espinal@isglobal.org) or 93 214 73 51
- Ma José Merino Gonzalez, Head of the management area of the Human Resources Department (mariajose.merino@isglobal.org) or 93 227 18 04
- Francesc Guil. Human Resources Specialist (francesc.guil@isglobal.org)
- Occupational hazard prevention service. Telephone: 93 227 54 00 ext. 2760 and 9367 (Sonia Barroso)

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10.2. Procedure for filing a complaint and requesting assistance from the person of reference to resolve the situation.



Stage 1. Communication and advice

In the first resolution channel that ISGlobal has established, the designated and trained person of reference intervenes and will try to resolve the situation (when the people have difficulties in directly rectifying what is causing the situation).

This process is not always, or in all situations, the most suitable (it is not in those cases in which, due to the severity of the actions, a sanction is appropriate).

This kind of intervention will facilitate a very quick solution of the problem and will respond to the expectations and needs of the people affected by these situations and who want to solve and end the harassment situation without formalities and without having to file an internal written complaint.

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1. Initial stage: Formulate a complaint.

- The first step is the **notification of the facts** to any of the persons of reference.
- It is important to formulate the complaint as soon as possible after the facts.

2. Analysis of the facts: Gathering information

Once the complaint is received, the person of reference **will interview** the person considered harassed in order to:

- Obtain an initial overview of the case (assess the origin and risk to which the employee has been exposed).
- Inform and advise on their rights and all the options and actions that can be taken.

3. Informal mediation

4. Resolution

The resolution of the complaint of workplace violence in any of its forms entails an obligation to:

- Guarantee the disruptive conduct against the other person has ended.
- Notify the decision: Communicate in writing to the harassed person and the person who has committed the offence about what has happened and how the problem has been solved.

The person of reference will try to resolve the conflict acting as a third party in an informal mediation between the parties involved. This entails:

- Informing the person that their behaviour is contrary to the rules of the entity.
- Inform them of the consequences of continuing with the harassing attitude.

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- Notify them that, although the conversation is informal and confidential, the situation will be monitored.

The person of reference must ensure that:

- The behaviour stops.
- Measures are taken to prevent other cases of workplace violence in any of its forms.
- The reports on what has happened are stored in a confidential manner and in compliance with data protection.

From the date of filing the complaint to the attempt at resolution, no more than **three working days** should pass.

10.3 “Indemnity against retaliation. LOIHM2007

Any adverse treatment or negative effect that occurs to a person as a result of them filing a complaint, claim, report, lawsuit or appeal, of any kind, aimed at preventing their discrimination and demanding the effective compliance of the principle of equal treatment between men and women shall also be deemed gender discrimination.”

Article 9.

The repetition of harassing behaviour and the victim’s express rejection of it **are not required by our legislation** to assess whether behaviour constitutes harassment.

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Stage 2. Channel for resolution and response within the entity: Internal complaint and investigation

When attempts to solve the problem through the support of a person of reference are not recommended (due to the severity of the situation); have been rejected; or when the result has been unsatisfactory, it is necessary to file an internal complaint and request an investigation be opened.

This consists of **filing an internal complaint** and requesting an investigation process be opened. The main objective is to find out if the person accused of harassment has breached the entity's protocol, and to respond accordingly.

10.4 Proof

1. In accordance with procedural laws, in those procedures in which the allegations of the claimant are based on discriminatory actions, due to gender, it will correspond to the defendant to prove the absence of discrimination in the adopted measures and their proportionality. For the effects of that provided in the previous paragraph, the legal body, at the request of the party, may seek, if they deem it useful and pertinent, a report or ruling from the competent public bodies.

2. That established in the previous section shall not be applicable to criminal processes.”

Article 13

a. Initial stage: Filing an internal complaint (see Annex 1)

The first step is the **notification of the facts** to the person, persons or specific investigation bodies. (A committee agreed between the company, the HR Department and the Occupational Hazard Prevention Service). The internal complaint must be made in writing and include:

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- Full name of the person filing the complaint, later this will be replaced by alphanumeric codes.
- Full name and post of the alleged offender, later this will be replaced by alphanumeric codes.
- Details of the facts considered relevant: description, dates, duration, frequency of the facts.
- Full names of possible witnesses, later these will be replaced by alphanumeric codes.

The body, department or person who receives the complaint must:

Inform the alleged offender of the content of the accusations.

- Establish the terms of reference of the investigation. Notify the alleged victim and the alleged offender of how and who will carry out the investigation.
- In any case, if they do not form part of the designated body: Inform the Prevention Services and its delegates.

b. Investigation of the procedure

A **written report** must be drafted that states whether there is sufficient evidence to affirm that workplace violence has occurred in any of its manifestations: sexual harassment, gender harassment, psychological harassment or other forms of discrimination.

In the report the names of the people involved, such as:

Witnesses

Alleged victim

Alleged offender

will be replaced by alphanumeric codes to maintain the confidentiality and privacy of the data.

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For this purpose, they must:

- Interview the person filing the internal complaint (who may be accompanied by the person of reference or a colleague through the entire process).
- Interview the possible witnesses (informing them of the need to maintain confidentiality).
- Interview the alleged offender (who may be accompanied by a designated person throughout the process, whether it is the person of reference or a colleague).

If needed, the advice of professionals in the fields of psychology, law, medicine, specialists in this kind of processes, etc. will be requested. The experts from the prevention service and health monitoring personnel must be heard in this investigation.

The person who makes the complaint must provide objective elements that are based on discriminatory actions, and it will correspond to the defendant to prove the absence of discrimination.

The investigation must end with a decision and a summary of the facts must be included. The report must also include who has been interviewed, what questions were asked and what conclusions the investigator has reached. To draft this report, it is necessary that the person or bodies commissioned with the investigation bear in mind the cultural elements that influence the fact that caused the complaint.

c. Provisional measures during the investigation

During the investigation process, they must consider if it is necessary:

- To take any measure to limit or avoid contact between the person filing the complaint and the alleged offender.
- Try to limit contact during the investigation.
- Facilitate support and advice.

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- Take measures to guarantee confidentiality.

d. Decision-making: Resolution

The person, persons or specific body that takes on the investigation (as established in the previous point) must draft a written report for the person, persons or specific body commissioned with resolving it, where it will state whether there is sufficient evidence to affirm that a situation of workplace violence has occurred in any of its manifestations and depending on the purpose of the complaint.

If the facts are classified as workplace violence conducts, they will establish:

- The **sanctions and other measures**.
- The **compensations** to the person who has suffered this situation.

The report may conclude: 1) the opening of disciplinary proceedings for the commission of a very serious offence, depending on the evidence of reasoned harassment or discrimination behaviours; 2) the proposal of organisational measures within the assessment programme, prevention of psychosocial risks; 3) the conclusion that there are no special behaviours or conflicts.

And finally, report on the result and the **right to file an appeal**, if the result is not satisfactory.

The person or body commissioned with resolving it will inform the person who must formulate the complaint of the disciplinary actions that will be taken. The decision will include a summary of the facts and will detail the compensations or sanctions.

10.5 Guarantees of the process and deadlines

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- a. All** internal claims and complaints will be treated with **rigour, speed, impartiality and confidentiality.**

During all the stages of the planned procedure, the people who intervene must act according to the principles of confidentiality, impartiality and speed in the actions. All information relating to complaints about harassment will be treated so as to protect the right to privacy of all the people involved.

- b.** The person who files a claim or complaint **is entitled** to:

- Have guarantees that it will be dealt with quickly.
- Be accompanied by someone they trust throughout the process.
- Receive guarantees that no record will be made of the complaint on their personnel file if it has been made in good faith.
- Receive information on the evolution of the complaint.
- Receive information on the resulting corrective actions.
- Receive fair treatment.

- c.** The person accused of any kind of workplace violence is entitled to:

- Be informed of the complaint/claim.
- Receive a copy of the complaint and respond.
- Be accompanied by someone they trust throughout the process.
- Receive information on the evolution of the complaint.
- Receive fair treatment that is not conditioned by the subject of the complaint itself.

- d.** Deadline

The duration of the entire process will not be greater than **thirty days.**

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11. SANCTIONS AND CORRECTIVE ACTIONS

Any kind of workplace violence in any of its manifestations or other kind of discrimination is explicitly prohibited by this protocol and will be treated as a **disciplinary offence**.

- Vertical sexual harassment is deemed a very serious offence.
- Workplace sexual harassment and gender harassment may be assessed as a serious or very serious offence depending on the circumstances of the case.
- Workplace harassment or mobbing is deemed a very serious offence.

Retaliation against a person who has made a complaint or who has collaborated in the investigation constitutes a serious disciplinary offence.

Organic Law 3/2007 for the effective equality of men and women reinforces institutional intolerance and rejection of sexual harassment and gender harassment introducing modifications to Royal Legislative Decree 5/2000, of 4 August, which approves the reformed text of the Law on Offences and Sanctions of the Social Order (Additional provision fourteen. Modifications to the Law on Offences and Sanctions of the Social Order adds point 13.b. to article 8):

Article 8.

Very serious offences. *Very serious offences in work relationships are:*

“11. Acts of the business owner that were contrary to the respect of privacy and due consideration of employees’ dignity.

1. **Sexual harassment**, *when it occurs within the environment over which the business management team has powers, whoever may be the perpetrator.*

13 bis: Harassment due to racial or ethnic origin, religion or beliefs, disability, age and sexual orientation and gender harassment, *when they occur within the environment over which the business management team has powers, whoever may be the perpetrator, as long as, known by the business owner, they have not taken the necessary measures to prevent it”*

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Law on Offences and Sanctions of the Social Order

The sanctions imposed will be determined by management and the investigating body.

When determining the sanction, it will be necessary to include those situations that are deemed aggravating, which include:

The special vulnerability of the victim (contractual and job insecurity, disability, age).
Subordination regarding the offender
Recidivism in the harassing behaviour.

Actions for the eradication and sanction of the violent behaviour does not end within our company.

The Work and Social Security Inspectorate has the competencies and responsibility on matters of sexual harassment and gender harassment. In this sense, the Inspectorate may:

- Act ex officio, monitoring compliance of the order of the law by companies and/or employment organisations.
- Act, when requested by the victim or their representative, in the face of a complaint of an episode of sexual harassment or psychological harassment.

Likewise, Organic Law 3/2007 establishes measures to **protect and safeguard** victims in the event of a complaint.

“Effective legal protection”.

- *Anybody may receive from the courts the protection of the right to equality*

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between men and women, in accordance with that established in article 53.2 of the Constitution, including after the termination of the relationship in which the discrimination has allegedly occurred.

- *The capacity and standing to intervene in the civil, social and judicial review processes that deal with the defence of this right correspond to the natural and legal persons with a legitimate interest, set out in the laws that regulate these processes.*
- *The harassed person will be the only one with standing in lawsuits on sexual harassment and gender harassment.”*

Article 12.

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12. LEGISLATION REFERENCES

European legislation:

- The founding Treaty of the European Community, signed in Rome on 25.03.1957, article 119.
- The European code of conduct on measures for combating sexual harassment.
- Directive 2002/73/EC of the European Parliament and Council of 23 September 2002, which modifies Directive 76/207/EEC of the Council, relating to the application of the principle of equal treatment between men and women regarding access to professional employment, training and promotion, and to working conditions, paragraph 4t. of article 2.2.

Spanish legislation:

- The Spanish Constitution protects the fundamental rights (right to physical integrity, right to personal privacy, etc.):
 - **Article 1.1** proclaims that *Spain (...) defends freedom, justice, equality and political pluralism as superior values of its legal system.*
 - **Article 9.2** states that *it corresponds to the public powers to promote the conditions so that the freedom and equality of the individual and of the groups they form are real and effective; remove obstacles that prevent or make fulfilment difficult and facilitate participation of all citizens in political, economic, cultural and social life.*
 - **Article 14** affirms that *Spaniards are equal before the law, without discriminations due to birth, race, gender, religion, opinion or any other personal or social condition or circumstance prevailing.*
 - **Article 18.1** expresses that *it guarantees the right to honour, personal and family privacy and to self-image.*

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- **Article 35.1** outlines that *all Spaniards have the duty to work and the right to work (...), without being discriminated against for reasons of gender, under any circumstances.*

- **Article 53.2** declares that *any citizen may claim the protection of the freedoms recognised in article 14 (...) before the ordinary courts through proceedings based on the principles of preference and a preliminary hearing.*

- **The Spanish Criminal Code:** article 184 states that *whoever requests sexual favours for themselves or for a third-party taking advantage of a situation of supervisory, teaching or similar authority, with the express or tacit announcement of causing the victim some harm relating to the expectations they may have within the scope of this relationship, will be punished as the perpetrator of sexual harassment with imprisonment of twelve to twenty-four weekends or a six to twelve-month fine.*

- **The Workers' Statute:**

- **Article 4.2.c** affirms that, *regarding work, employees are entitled not be discriminated against for reasons of gender for the employment, or once hired...*

- **The same article 4.2.e** states that *workers have the right to privacy and due consideration of their dignity, including protection against verbal or physical attacks of a sexual nature.*

- **Article 96.11.** classifies as a *very serious offence the acts of the business owner contrary to the respect of privacy and due consideration of employees' dignity.*

- Also, **article 96.14** sanctions *sexual harassment as a very serious offence, when it takes place within the environment over which the business management team has powers.*

- **Law 31/1995 on the prevention of occupational hazards:**

- **Article 2** establishes that *the objective of the Law is to promote the health and safety of workers through the application of measures and the*

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implementation of the necessary activities for the prevention of risks arising from work.

- **Article 4** defines *occupational hazard as the possibility that a worker suffers a certain harm arising from the work.*

- **Law on Offences and Sanctions of the Social Order:**
 - **Article 8.11.** considers as *very serious offences the acts of the business owner contrary to the respect of privacy and due consideration of employees' dignity.*
 - **Article 8.13** likewise, classifies as a *very serious offence, sexual harassment when it takes place within the environment over which the business management team has powers, whoever may be the perpetrator.*
- **And**, of fiscal, administrative and social order measures:
 - **Article 37** adds a new section 14 to article 96 of the Workers' Statute, in which it considers *sexual harassment when it occurs within the environment over which the business management team has powers* as a serious offence.
- **Law 62/2003, of 30 December, of fiscal, administrative and social order measures**, establishes measures for the application of the principle of equal treatment and non-discrimination at work:
 - **Article 37** modifies the reformed text of the Workers' Statute Law, approved by Royal Legislative Decree 1/1995, of 24 March, so that article 4.2.e) is worded as follows: *To respect of their privacy and due consideration of their dignity, including protection against verbal or physical attacks of a sexual nature...*
- **Organic Law 3/2007 of 22 March for the effective equality of men and women**
 - **Article 7.** Gender or sexual harassment
 - **Article 9.** Indemnity against retaliation
 - **Article 10.** Legal consequences of discriminatory behaviour
 - **Article 12.** Effective legal protection
 - **Article 13.** Proof

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- **Article 48.** Specific measures to prevent gender or sexual harassment in the workplace

- **Article 62.** Protocol of action against sexual harassment and gender harassment

- **Law 11/2014, of 10 October, to guarantee the rights of lesbians, gays, bisexuals, transgender and intersex people and to eradicate homophobia, biphobia and transphobia.** Generalitat Government of Catalonia

- **Article 20.** Integration of the right to equal treatment and opportunities of LGBTI people.

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13. GLOSSARY

- **Gender harassment:** Any behaviour relating to the gender of a person, with the aim or effect of infringing upon the dignity of the person and creating an intimidating, degrading or offensive environment.
- **Sexual harassment:** Any behaviour, verbal or physical, of a sexual nature that aims to produce or produces the effect of infringing upon the dignity of a person, particularly when it creates an intimidating, degrading or offensive environment.
- **Direct gender discrimination:** Situation of a person who is, has been or may be treated, based on their gender, in a less favourable manner than in a comparable situation.
- **Gender:** Concept that refers to social differences (in contrast to biological ones) between men and women that have been learnt, change with time and show serious variations between diverse cultures and even within the same culture.
- **Equality between men and women:** Real lack of barriers that limit the opportunities of a person depending on their gender. It means that women do not find limitations that men do not have.
- **Sex:** Biological characteristics that distinguish men from women. It exclusively refers to the biological and natural field, to the biological differences between people, those determined by the presence of the X or Y chromosome in the human body.

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OTHER FORMS OF DISCRIMINATION: CONCEPTS

Employment discrimination. That which comprises mistreating or treating someone as inferior, for reasons beyond the ability to perform in the work environment, using as an excuse reasons beyond the ability to perform the work that the person normally does, reasons such as the employee's old age, their gender, their status, nationality, religion, ethnic origin, their economic situation, legal status (such as, illegal immigrants), sexual preference, membership of a political party or political tendency.

Social discrimination. That exercised through derogatory treatment of a person or social group.

Racial discrimination. Racial discrimination is that exercised against those who have different physical traits to those of a different ethnic-social group, it is often exercised against ethnic minorities or individuals who belong to another race and even those people who have another culture or language despite belonging to the same race.

Age discrimination. That exercised against older or very young people, belittling their physical and mental abilities for performing some tasks and work.

Gender discrimination. Gender discrimination is that in which a person denies a service, opportunity, or access to a certain location, justice, or medical assistance, in an unjustified manner solely alluding to their gender.

Discrimination for sexual orientation. That which occurs against people who have a different sexual tendency to that of others, it commonly occurs through heterosexual people against people who are sexually attracted to people of the same gender, in other words, against male homosexuality (gay) and female homosexuality (lesbianism).

Discrimination by mistake. Situation in which a person or a group of people are subjected to discrimination for sexual orientation, gender identity or expression of gender because of an incorrect assessment.

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Multiple discrimination: Situation in which a lesbian, gay, bisexual, transgender or intersex person, for the fact of belonging to other groups that are also subject to discrimination, suffers aggravated and specific forms of discrimination.

Order to discriminate: Any instruction that implies direct or indirect discrimination due to sexual orientation, gender identity or the expression of gender.

Secondary victimisation: Additional mistreatment of lesbians, gays, bisexuals, transgender or intersex people who are in any of the situations of discrimination, harassment or retaliation as a direct or indirect consequence of the deficits of interventions carried out by the responsible bodies, as well as by actions of other involved agents.

Religious discrimination. That of some people or groups of people against those who do not profess the same religion as them. In other words, that by people or group against those who have a different religious belief to theirs. One example is the discrimination of some majority religious groups in a country or region against other religious groups.

Ideological discrimination. This is similar to religious discrimination to the extent that it is against people who have a different belief, but in this case, it is a different ideological belief.

Discrimination for nationality or place of origin. This is the type of discrimination suffered by people who are not originally from a country or place where they reside, by those who were born in the country or who have been in a specific place for longer.

Pregnancy discrimination. The type of discrimination against pregnant women at work, school or in society in general.

Discriminatory retaliation: Adverse treatment or negative effect that occurs against a person as a result of filing a complaint, claim, report, lawsuit or appeal, of any kind, aimed at preventing, reducing or reporting discrimination or harassment to which they have been subject.

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Discrimination due to dysfunctionality. The type of discrimination suffered by those people who have a physical or mental dysfunctionality, whether congenital or caused by an accident, illness or age, which prevents them from developing and coping in a normal way at work, school, in society or life in general.

Discrimination due to illiteracy or academic level. Discrimination against people who do not know how to read or who have a lower academic level.

Gender violence: This term refers to the specific violence against women, used as an instrument to maintain discrimination, inequality and relationships of power of men over women. It comprises physical, sexual and psychological violence, threats, coercion, or arbitrary unlawful imprisonment, which occurs in public or private life and the main risk factor comprises the fact of being a woman.

Harassment due to sexual orientation: The gender identity or the expression of gender: Any behaviour based on sexual orientation, the gender identity or the expression of gender of a person which has the purpose or causes the effect of infringing upon their dignity or their physical or psychological integrity or of creating an intimidating, hostile, degrading, humiliating, offensive or annoying environment.

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14. VERSION CONTROL

Version	Date	Changes
-	-	For information on previous versions contact the HR department
V5	11/3/2021	Abuse of minors is incorporated. Pages 10 and 19. Further normalization of the document.
V6	07/07/2021	Changes in abuse minors' text (unaccompanied minor). Pages 11 and 21

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15. ANNEXES

1. FORMAL HARASSMENT COMPLAINT FORM: sexual or gender
2. FORMAL HARASSMENT COMPLAINT FORM: psychological or mobbing

Space reserved for the Entry Record

File number

(Document for internal use. Do not publish or disseminate)

Internal complaint form. Sexual and gender harassment protocol ⁽⁷⁾

Information of the alleged offender

Full name	ID number
Age	Gender
	<input type="checkbox"/> Female <input type="checkbox"/> Male
Workplace address	Workplace
Contact telephone number	E-mail address

Information of the complainant (affected person)

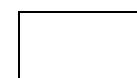
Full name	ID number
Age	Gender
	<input type="checkbox"/> Female <input type="checkbox"/> Male
Workplace address	Workplace
Contact telephone number	E-mail address

Account of the events ⁽⁸⁾

(Specify the reason, attaching supporting documentation, if appropriate)

⁷ Any data processing that takes place during the processing of this complaint must respect the current legal framework regarding personal data protection.

⁸ If more space is required, fill in another page and number it.



WRITTEN COMPLAINT FORM: MOBBING FORMAL INTERVENTION STAGE

Date of the internal complaint:

Reference: Mediation YES NO

The internal complaint will be made in writing and will include:

Person who makes the complaint

Alphanumeric codes

Alleged offender and post.

Alphanumeric codes

Details of the facts deemed relevant:

Description of the facts, details, dates, description of the offensive behaviour, frequency, the duration, what has happened, the generated response, when it has happened, any witnesses, has support been requested of anyone in the Company.

Alphanumeric codes of witnesses

Description of the feelings this situation causes for the person filing the complaint

MOBBING INVESTIGATION CONCLUSIONS REPORT FORM

IDENTIFICATION INFORMATION

Employee:

Job:

Workplace:

DEVELOPMENT

1. During the investigation stage of this process, the person filing the complaint has been interviewed on: XX, the interviews being confidential, and the questions formulated based on the description of the facts that are the subject of the complaint.

The criteria of the questions have been based on the following items:

1. Further information
2. Search for contradictions or subjective elements
3. Establishment of a favourable climate for trust
4. **Verification** of the compliance of the conditions for diagnosis, for which purposes the Leymann questionnaire is handed over, so that through its 45 items, the actions that have occurred can be determined, as well as the existing elements of evidence that show a systematic nature (at least once a week) during a prolonged period of time (over 6 months) against the other person in the workplace.

The documents filled out by **the person filing the complaint** have been:

- Complaint form
- Leymann Test.
- Interview form

2. During the investigation stage, **the alleged offender** has been interviewed on: XX, the interviews being confidential, and the questions formulated based on the description of the facts that are the subject of the complaint.

3. **The person or persons who have testified** during the investigation stage of this process have been interviewed on: XX, the interviews being confidential, and the questions formulated based on the description of the facts that are the subject of the complaint.

2. ORGANISATIONAL INDICATORS

YES

NO

- Analysis of absenteeism
- Has required a medical consultation
- Is or has been on sick leave
- Decline in performance

3. SPECIFIC HEALTH INFORMATION: VOLUNTARILY INCLUDE A MEDICAL OR PSYCHOLOGICAL REPORT IF THERE IS ONE.

4. SUMMARY OF THE BEHAVIOUR

- total nº behaviours
- frequency repetition weekly
- duration

5. FINAL ASSESSMENT: OBSERVATIONS

- There is a mobbing situation

YES:

The psychopathological disorders of the employee are the result of the working conditions and some psychosocial risks that have not been removed. Their permanent existence makes the efficient execution of the work impossible.

- What type of mobbing
- Frequency of psychological harassment behaviour
- Duration of psychological harassment behaviours

NO.

Reasoning for the conclusion:

Signed by the people involved in this formal complaint stage.

Date:

- The report will be sent to the equality commission or the designated body.

Record nº: